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CHARLES ELMO

Supreme Court of the United States

October Term, 1929. No. 83

PARAMOUNT FAMOUS LASKY CORPORATION, *et al.*,
Appellants,
against
UNITED STATES OF AMERICA,
Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

STATEMENT OF JURISDICTION

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IN THE

Supreme Court of the United States

October Term, 1929

PARAMOUNT FAMOUS LASKY CORPORATION, *et al.*,
Appellants,
against
UNITED STATES OF AMERICA,
Appellee.
No. 820

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

STATEMENT OF JURISDICTION.

Appellants submit, in compliance with Rule 12 of the Rules of this Court adopted June 5, 1928, the following statement of the basis of this Court's jurisdiction to review on appeal the Decree of the District Court.

(*a*)

The statutory provisions sustaining the jurisdiction of this Court are as follows:

This is an appeal from a final decree of the United States District Court for the Southern District of New

York made and entered in a suit in equity brought therein under the Sherman Act (U. S. C. Tit. 15, Secs. 1 to 7), wherein the United States is complainant, adjudging that certain acts on the part of the Appellants (defendants below) constitute a conspiracy in restraint of interstate trade and commerce in violation of the said Sherman Act, and perpetually enjoining Appellants from doing certain acts in furtherance of the purposes of the alleged conspiracy.

The appeal is taken directly to this Court by virtue of Title 15, Section 29, of the Code of Laws of the United States, known as the Expediting Act of February 11, 1903 (Sec. 2), which reads as follows:

> "*Sec. 29. Appeals to Supreme Court.* In every suit in equity brought in any district court of the United States under any of the laws mentioned in the preceding section, wherein the United States is complainant, an appeal from the final decree of the district court will lie only to the Supreme Court and must be taken within sixty days from the entry thereof."

We also rely upon the preceding section therein referred to, *i. e.*, U. S. C. Tit. 15, Sec. 28, the laws mentioned therein being sections 1 to 7 of the same title, and similar laws, *i. e.*, the anti-trust laws, including the aforesaid Sherman Act; and upon Section 238 of the Act of Congress known as the Judicial Code, as amended by the Act of February 13, 1925 (now U. S. C. Tit. 28, Section 345) which, so far as relevant, reads as follows:

> "SEC. 238. A direct review by the Supreme Court of an interlocutory or final judgment or decree of a district court may be had where it is

so provided in the following Acts or parts of Acts, and not otherwise:

"(1) Section 2 of the Act of February 11, 1903, 'to expedite the hearing and determination' of certain suits brought by the United States under the antitrust or interstate commerce laws, and so forth."

(*b*)

The date of said final decree sought to be reviewed is January 21, 1930, and the date of entry thereof is January 22, 1930 (Decree, p. 7; cumulative p. 230*. Petition for Appeal, p. 2; cumulative p. 239). The date upon which the application for the appeal was presented, and the appeal allowed, was March 21, 1930 (Petition for Appeal, p. 2; cumulative p. 239).

(*c*)

The nature of the case and of the rulings below were such as to bring the case within the jurisdictional provision relied on as shown by the record as follows:

This was a suit brought in equity against the Appellants in the United States District Court for the Southern District of New York under the said Sherman Act, in which the United States was complainant, for a decree and injunction against the Appellants. In the Petition it was alleged and claimed that the defendants were engaged in a conspiracy in restraint of interstate trade and commerce in motion picture films, in the manner and by the means described in the Petition, in violation of

* The Record has not yet been printed. The cumulative page numbers refer to the pages of the Record (partly printed and partly typewritten) transmitted by the clerk of the court below, counting consecutively from p. 1 of the Petition.

said Sherman Act, the prayer for relief at the end of the Petition containing the following (Petition, p. 51; cumulative p. 51):

> "That the court, upon the final hearing of this cause, adjudge and decree that the defendants have engaged in a conspiracy in restraint of interstate trade and commerce in motion picture films, in the manner and by the means hereinbefore described, in violation of the Act of Congress of July 2, 1890, entitled 'An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies'; and that the defendants and their officers, agents, and employees be perpetually enjoined, individually and collectively, from further engaging in, carrying out, or maintaining the said conspiracy, or any other of like character or effect, and particularly from further employing any or all of the above-described means of carrying out said conspiracy."

The rulings of the District Court bring the case within the jurisdictional statutes cited in Par. (*a*) *supra*, because the District Court entertained the petition, tried the cause, and entered a final decree awarding relief substantially in accordance with the prayer of the Petition and perpetually enjoining the Appellants from carrying out the alleged conspiracy or doing any acts in furtherance of it. The appeal from said final decree to this Court was taken within sixty days of the entry thereof (see Par. [*b*] *supra*). For the opinion, see 34 F. (2d) 984.

(*d*)

The following cases are believed to sustain the jurisdiction of this Court:

National Association of Window Glass Mfrs. v. *United States,* 263 U. S. 403 (1923);
Cement Mfrs. Association v. *United States,* 268 U. S. 588 (1925);
United States v. *California Canneries,* 279 U. S. 553 (1929).

Dated, May 3, 1930.

Respectfully submitted,

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